

Application No. 10/748,638
Response dated: September 19, 2006
Reply to Non-Final Office action of June 19, 2006

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REMARKS

In response to the Office Action dated June 19, 2006, Applicants respectfully request reconsideration based on the above claim amendments and the following remarks. Applicants respectfully submit that the claims as presented are in condition for allowance.

Claims 1-12 are pending in the present Application. Claims 1 and 5 are amended and Claim 2 is canceled without prejudice, and new Claim 13 has been added, leaving Claims 1 and 3-13 for consideration upon entry of the present amendments and following remarks.

Support for the claim amendments can at least be found in the specification, the figures, and the claims as originally filed. Particularly, the support for amended Claim 1 is at least found in cancelled Claim 2.

Support for new Claim 13 can be found at least in the Specification on p. 6, lines 16-19 and on p. 7, lines 3-4.

No new matter has been introduced by these amendments. Reconsideration and allowance of the claims are respectfully requested in view of the above amendments and the following remarks.

Claim Rejections Under 35 U.S.C. §102

Claims 1-12 stand rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by Kawamura et al (United States Patent No. 6,887,909) and Kitabatake (United States Patent No. 6,369,133). Applicants understand the wording of the above rejection to mean that Claims 1-12 are subject to two separate rejections under 35 U.S.C. § 102(e) and will respond accordingly, but respectfully request that if Applicants have misunderstood the intent of the Examiner that the Examiner so inform Applicants. Applicants respectfully traverse each of these rejections.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Kawamura discloses processes for producing aqueous alkyd resin dispersions comprising, in each process, recovering high molecular weight polyesters (e.g., polyethylene terephthalate, PET) recovered from waste materials, depolymerizing them, and simultaneously esterifying

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them. Col. 2, lines 10-13, 30-33, 51-55, and col. 3, lines 5-9. Kawamura fails to disclose the polymerization of polyester using glycol and polybasic acid as claimed in instant Claims 1 and 5. One skilled in the art will appreciate that the depolymerization method disclosed in Kawamura, which first degrades an existing high molecular weight polymer and subsequently repolymerizes the breakdown products is not an identical method to the de novo polymerization of a polyester from existing monomer claimed in the instant claims. The process disclosed in Kawamura therefore does not utilize monomeric starting materials. One skilled in the art of polymer synthesis will further appreciate that methods involving breakdown of higher polymer (i.e., waste polymer) to form polymeric or oligomeric units are not well controlled with respect to the size of the breakdown products used in subsequent polymerizations. Such starting materials provide a variety of breakdown products for use in subsequent steps, since the starting materials used are suspended solids. Col. 3, lines 36-37. Suspended solids only react at the available surface/solution interface and therefore produce an uncontrolled spectrum of breakdown products of different molecular weights. An end polymer prepared using such subunits will have physical attributes, such as e.g., polydispersity, that are not equivalent to the attributes of polymers prepared using monomeric precursors. Further, such a process involving depolymerization is not claimed in the instant claims. Thus, Kawamura fails to disclose all elements of the instant claims, and therefore does not anticipate the instant claims. Reconsideration and allowance are therefore respectfully requested.

Kitabatake discloses a polyester-based aqueous coating composition comprising a carboxyl functional polyester resin, and epoxy resin, and a solvent that is neutralized and dispersed in water. Abstract. The polyester resin can be prepared by the condensation of a polybasic acid and a polyol, wherein the polyol is used in a molar excess relative to the polybasic acid. Col. 3, lines 41-45. Kitabatake is silent as to the molar ratio of the polybasic acid and polyol, and fails to disclose a molar ratio of terephthalic acid to ethylene glycol of about 1.0 : 1.0-1.4 as claimed in instant Claims 1 and 5. Kitabatake further fails to disclose that the molar amount of the components may be equimolar as claimed in instant Claims 1 and 5. Thus, Kitabatake fails to disclose all elements of the instant claims, and therefore does not anticipate the instant claims. Reconsideration and allowance are therefore respectfully requested.

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Thus, Kawamura et al. and Kitabatake do not disclose all of the limitations of amended Claims 1 and 5. Accordingly, Kawamura et al. and Kitabatake do not anticipate amended Claims 1 and 5. Applicant respectfully submits that amended Claims 1 and 5 are allowable. Claims 3, 4 and 6-12 are correspondingly allowable as depending upon Claims 1 and 5, respectively. Reconsideration and allowance of Claims 1 and 3-12 are respectfully requested.

Conclusion

In view of the foregoing, it is respectfully submitted that the instant application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicants' agents would be advantageous to the disposition of this case, the Examiner is cordially requested to telephone the undersigned.

In the event the Commissioner of Patents and Trademarks deems additional fees to be due in connection with this application, Applicants' agent hereby authorizes that such fee be charged to Deposit Account No. 06-1130.

Respectfully submitted,

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